

**NEW JERSEY STATE
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**NEW JERSEY ADMINISTRATIVE CODE
TITLE 7, CHAPTER 27**

**SUBCHAPTER 23
PREVENTION OF AIR POLLUTION FROM
ARCHITECTURAL COATINGS AND CONSUMER PRODUCTS**

Filed: January 27, 1989
Operative: February 21, 1989
See: 20 N.J.R. 2002(a), 21 N.J.R. 462(a)

Amendment Promulgated: October 13, 1989
Amendment Operative: December 12, 1989
See: 21 N.J.R. 1055(a), 21 N.J.R. 3488(a)

Amendment Promulgated: July 16, 1990
Amendment Operative: August 9, 1990
See: 21 N.J.R. 3360(a), 22 N.J.R. 2145(b)

Amendment Promulgated: March 2, 1992
Amendment Operative: March 28, 1992
See: 23 N.J.R. 1858(b), 24 N.J.R. 792(a)

Amendment Promulgated: June 20, 1994
Amendment Operative: July 26, 1994
See: 25 N.J.R. 3339(a), 26 N.J.R. 2600(a)

TABLE OF CONTENTS

<u>SECTION</u>	<u>TITLE</u>	<u>PAGE</u>
7:27-23.1	Applicability	2
7:27-23.2	Definitions	2
7:27-23.3	Architectural coatings	7
7:27-23.4	(Reserved)	10
7:27-23.5	Labeling requirements	10
7:27-23.6	Administrative requirements	11
7:27-23.7	Inspections	11

7:27-23.1 Applicability

- (a) This subchapter prescribes the rules of the Department for limiting the VOC content of architectural coatings and consumer products. The following sections shall govern the content of architectural coatings and consumer products used and provided for use in the State and the method to be followed by manufacturers, distributors, and retailers to assure these standards are met.
- (b) As set forth at N.J.A.C. 7:27-17.4(c), this subchapter's requirements for the implementation of control measures, including but not limited to, requirements for the installation and use of control apparatus, or the use of compliant coatings, shall apply with full force to Group II TXS until the Department amends this rule in response to EPA rulemaking or otherwise.

7:27-23.2 Definitions

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

"Air freshener" means any product available to a direct consumer which is marketed for the purpose of masking odors, providing a scent, or deodorizing, including, but not limited to, sprays, wicks, powders, and crystals. This does not include products for use on the human body.

"All other architectural coatings" means any coating which does not meet any other architectural coating definition.

"Architectural coating" means a surface coating formulation applied and dried at ambient conditions, and used to coat all or parts of stationary structures and their appurtenances, such as buildings, bridges, the interior or exterior of houses, and other items such as signs, curbs and pavements.

"ASTM" means the American Society for Testing and Materials.

"Bituminous coating" or "bituminous sealer" means a coating material, consisting mainly of hydrocarbons and soluble in carbon disulfide, which is obtained from natural deposits or as residue from the distillation of crude petroleum oils or of low grades of coal.

"Bond Breaker" means any coating whose sole purpose, when applied between layers of concrete, is to prevent the freshly poured top layer of concrete from bonding to the substrate on which it is poured.

"Concrete curing compound" means any coating whose sole purpose is to retard the evaporation of water from the surface of freshly cast concrete, thereby strengthening it.

"Consumer insecticide" means those insecticide formulations available to a direct consumer which are not classified as restricted-use pesticides under the provisions of N.J.A.C. 7:30-2 of the New Jersey Pesticide Control Code and which are liquids marketed in containers of one gallon (3.79 liters)

or less, or which are marketed in pressurized containers of four pounds (1.8 kilograms) or less net weight.

"Consumer product" means any of the wide variety of household products such as architectural coatings, toiletries, and cleaning agents, used by a direct or indirect consumer and available in retail markets, and includes, but is not limited to, personal products, pesticides, automotive products, cleaners, air fresheners, and food products.

"Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant, with or without causing abscission.

"Department" means the New Jersey Department of Environmental Protection and Energy.

"Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

"Direct consumer" means an individual who utilizes a consumer product in the satisfaction of his or her personal wants.

"Dry fog coating" means any spray coating which is formulated so that overspray droplets dry before falling on floors and other surfaces.

"EPA" means the United States Environmental Protection Agency.

"Fire retardant coating" means any coating which is designed to retard fire and which will reduce the rate of flame spread on the surface of a substrate to which the coating has been applied, resist ignition when exposed to high temperatures, or insulate the substrate to which such a coating has been applied and thus prolong the time required to reach ignition temperature.

"Flat architectural coating" means any coating which registers a gloss of 15 or less on a glossmeter held at an 85 degree angle to the coated surface or less than five on a glossmeter held at a 60 degree angle, or which is labeled as a flat coating.

"High heat resistant coating" means any coating formulated specifically for use in high temperature applications. These coatings are designed to withstand temperatures in excess of 400 degrees Fahrenheit.

"High performance coating" means an architectural coating formulated for and exposed to harsh environmental conditions including, but not limited to: outside weather conditions all the time, or temperatures consistently above 95 degrees Centigrade or below zero degrees Centigrade; or solvents, detergents, abrasives or scouring agents; or corrosive atmospheres or fluids.

"Indirect consumer" means a person who utilizes a consumer product in providing a service to others.

"Industrial maintenance primer" means any coating which is intended to be applied to the surface of a substrate, prior to the application of an industrial maintenance topcoat, to provide a firm bond between the substrate and subsequent coatings.

"Industrial maintenance topcoat" means any high performance coating which is formulated for the purpose of protecting against heavy abrasion or water immersion, or providing resistance to chemicals, corrosion, temperature extremes, electric potential, or solvents.

"Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as, for example, beetles, bugs, bees and flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as, for example, spiders, mites, ticks, centipedes and wood lice.

"Insecticide" means any substance or mixture of substances labeled, designed, or intended for use in preventing, destroying, repelling, or mitigating any insect, and includes, but is not limited to, ant and roach killers, room and outdoor foggers, flea and tick sprays, and personal and area insect repellents.

"Label" means anything functioning as a means of identification, such as any paper, plastic or printed inscription, placed on the container provided to direct or indirect consumers.

"Lacquer" means a clear or pigmented coating formulated with nitrocellulose or synthetic resins which dries by evaporation without chemical reaction and provides a quick drying, solid protective film.

"Mastic texture coating" means any coating, except waterproof mastic coatings, which is formulated to cover holes and minor cracks and to conceal surface irregularities.

"Metallic pigmented coating" means any coating which is formulated with a minimum of 0.4 pounds per gallon (0.05 kilograms per liter) of metallic pigment.

"Multicolored coating" means any coating which exhibits more than one color when applied in a single coat and which is packaged in a single container.

"Non-fat architectural coating" means a coating which registers a gloss of 15 or greater on a glossmeter held at an 85 degree angle to the coated surface or five or greater on a glossmeter held at a 60 degree angle.

"Normal environmental conditions" means temperatures above 50 degrees Fahrenheit (14 degrees centigrade).

"Opaque stain" means any stain not classified as a semitransparent stain.

"Person" means and includes corporations, companies, associations, societies, firms, partnerships and joint stock companies, as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

"Pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life, or virus, bacteria, or other micro-organism (except viruses, bacterial or other micro-organisms on or in living man or other animals) which is injurious to health or the environment.

"Pesticide" means and includes any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator; provided that the term "pesticide" shall not include any substance or mixture of substances which the EPA does not consider to be a pesticide.

"Plant regulator" means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

"Primer, sealer, and undercoater" means any coating which is intended to be applied to the surface of a substrate to perform one or more of the following functions: provide a firm bond between the substrate and subsequent coats; protect porous substrates; prevent subsequent coatings from being absorbed by the substrate; prevent harm to subsequent coatings by materials in the substrate; provide a smooth surface for subsequent coats; seal fire, smoke, or water damage; neutralize odors; block stains; block efflorescence; condition chalky surfaces; or coat acoustical materials without affecting their acoustical properties.

"Quick-dry primer, sealer, and undercoater" means any primer, sealer or undercoater which is intended to be applied to the surface of a substrate to perform one or more of the following functions: provide a firm bond between the substrate and subsequent coats; seal fire, smoke, or water damage; block stains; or condition porous surfaces; and which dries to touch within one-half hour and can be recoated in two hours, as determined by ASTM-D-1640, or other method approved by the Department based on a study of comparability data.

"Roof coating" means any coating which is formulated for the sole purpose of preventing penetration of the substrate by water, including but not limited to, bituminous roof and waterproof mastic coatings.

"Room fogger" means any pressurized consumer insecticide used in a room empty of occupants in order to mitigate infestations of insects such as fleas or cockroaches.

"Semitransparent stain" means any coating which is formulated to change the color of a surface but not conceal or change the texture of the surface.

"Shellac" means any clear or pigmented coating formulated solely with the resinous secretions of the lac beetle (*laccifer lacca*), thinned with alcohol, and dried by evaporation without a chemical reaction.

"Sign paint" means any coating which is marketed solely for the application to indoor or outdoor signs, including lettering enamels, poster colors, and bulletin colors.

"Substrate" means any material to which an architectural coating is applied.

"Swimming pool coating" means any coating used on the interior surface of swimming pools which is specifically formulated to resist swimming pool chemicals.

"Tile-like glaze coating" means any coating which is formulated to provide a tough, extra durable coating system, applied as a continuous (seamless) high-build film, and which cures to a hard glaze finish.

"Toxic substance" or "TXS" means a substance listed in Table 1 of N.J.A.C. 7:27-17; that is, Benzene (Benzol), carbon tetrachloride (Tetrachloromethane), Chloroform (Trichloromethane), Dioxane (1,4-Diethylene dioxide), Ethylene dibromide (1,2-Dibromoethane), Ethylene dichloride (1,2-Dichloroethane), 1,1,2,2-Tetrachloroethane (sym Tetrachloroethane), Tetrachloroethylene (Perchloroethylene), 1,1,2-Trichloroethane (Vinyl trichloride), Trichloroethylene (Trichloroethane), Methylene chloride (Dichloromethane), and 1,1,1-Trichloroethane (Methyl Chloroform).

"Traffic coating" means any coating formulated to be applied to public streets, highways, or other surfaces, including, but not limited to, curbs, berms, driveways, and parking lots.

"Varnish" means any clear or pigmented coating formulated with various resins to dry by chemical reaction on exposure to air and intended to provide a durable transparent or translucent solid protective film.

"Volatile organic compound" or "VOC" means any compound of carbon (other than carbon monoxide, carbon dioxide, carbonic acid, metallic carbonates, metallic carbides, and ammonium carbonate) which participates in atmospheric photochemical reactions. For the purpose of determining compliance with emission limits or content standards, VOC shall be measured by test methods in the approved SIP (such as N.J.A.C. 7:27B-3) or 40 CFR Part 60, Appendix A, as applicable, or which have been approved in writing by the Department and are acceptable to EPA. This term does not include the compounds which EPA has excluded from its definition of VOC in the list set forth at 40 CFR 51.100(s)(1), which is incorporated by reference herein, together with all amendments and supplements. The list at 40 CFR 51.100(s)(1) currently includes the compounds and the classes of perfluorocarbons set forth below:

- methane
- ethane
- methylene chloride (dichloromethane)
- 1,1,1-trichloroethane (methyl chloroform)
- trichlorofluoromethane (CFC-11)
- dichlorodifluoromethane (CFC-12)
- trifluoromethane (HFC-23)
- 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113)
- 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)

chloropentafluoroethane (CFC-115)
chlorodifluoromethane (HCFC-22)
2,2-dichloro-1,1,1-trifluoroethane (HCFC-123)
2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)
1,1-dichloro-1-fluoroethane (HCFC-141b)
1-chloro-1,1-difluoroethane (HCFC-142b)
pentafluoroethane (HFC-125)
1,1,2,2-tetrafluoroethane (HFC-134)
1,1,1,2-tetrafluoroethane (HFC-134a)
1,1,1-trifluoroethane (HFC-143a)
1,1-difluoroethane (HFC-152a)
parachlorobenzotrifluoride (PCBTF)
cyclic, branched or linear completely methylated
siloxanes

Classes of perfluorocarbons:

cyclic, branched, or linear, completely fluorinated alkanes
cyclic, branched, or linear, completely fluorinated ethers
with no unsaturations
cyclic, branched, or linear, completely fluorinated tertiary
amines with no unsaturations
sulfur containing perfluorocarbons with no unsaturations and
with sulfur bonds only to carbon and fluorine

If there is any conflict between the list at 40 CFR 51.100(s)(1) and the list set forth above, the list at 40 CFR 51.100(s)(1) shall control.

"Waterproof mastic coating" means any weatherproof or waterproof coating formulated to cover holes and minor cracks and to conceal surface irregularities and which is applied in thicknesses of at least 15 mils.

"Wood preservative coating" means any coating which is formulated for the purpose of protection exposed wood from decay or insect attack by the addition of a wood preservative product registered by the EPA.

"Waterproofing sealer" means any coating formulated for the sole purpose of protecting porous substrates by preventing the penetration of water.

7:27-23.3 Architectural coatings

- (a) No person shall sell, offer for sale, hold for sale, provide, apply, or manufacture for sale within New Jersey any architectural coating manufactured after January 1, 1990, for Group I coatings and after February 28, 1990, for Group II coatings which contains more than the applicable

VOC content limit per volume of coating, excluding water and any colorant added to tint bases, as allowed in Table 1 in (f) below.

- (b) Effective February 28, 1993, no person shall sell, offer for sale, provide or hold for sale within New Jersey any architectural coating which contains more than the applicable VOC content limit per volume of coating, excluding water and any colorant added to tint bases, as allowed in Table 1 in (f) below.
- (c) For a specific architectural coating to which more than one VOC content limit in Table 1 is applicable, or for any architectural coating which has anywhere on the coating container, on any sticker or label affixed thereto, or in any sales or advertising literature, any indication that more than one VOC content limit in Table 1 is applicable, the most stringent limit is applicable.
- (d) The provisions of (a), (b) and (c) above shall not apply to architectural coatings sold in:
 - 1. New Jersey for shipment and use outside of the State. Documentation indicating the final destination of coating shipments shall be made available to representatives of the Department upon request.
 - 2. Containers with a capacity of less than one quart (0.95 liter).
- (e) Compliance with this section shall be determined using the following test methods: ASTM D-3960; ASTM D-1475-60; ASTM D-3792-79; ASTM D-2698-73; ASTM D-2369-81; ASTM D-4017-81; ASTM D-95-83; any other method approved by the Department.
- (f) Table 1 contains the VOC content limits for architectural coatings:

TABLE 1
VOC CONTENT LIMITS FOR ARCHITECTURAL COATINGS

Type of Architectural Coating	Maximum Allowable VOC Content Per Volume of Coating Excluding Water	
	Pounds per Gallon	Kilograms per Liter
Group I		
Bituminous Pavement Sealer	0.8	0.10
Bond Breaker	5.0	0.60
Concrete Curing Compound	2.9	0.35
Dry Fog coating	3.3	0.40
Industrial maintenance primer or topcoat	3.8	0.45
Mastic Texture Coating	1.7	0.20
Metallic Pigmented Coating	4.2	0.50
Non-flat architectural coating	3.2	0.38
Primer, sealer, and undercoater	2.9	0.35
Roof coating	2.5	0.30
Swimming pool coating	5.0	0.60
Traffic coating	2.1	0.25
Waterproof mastic coating	2.5	0.30
Wood preservative coating	4.6	0.55
Group II		
Fire retardant coating		
opaque	4.2	0.50
all others	7.1	0.85
Flat architectural coating	2.1	0.25
High heat resistant coating	5.4	0.65
Lacquer	5.7	0.68
Multicolored coating	5.0	0.60
Quick-dry primer, sealer, undercoater	4.2	0.50
Shellac		
clear	6.1	0.73
pigmented	4.6	0.55
Sign paint	3.8	0.45
Stain		
semitransparent	4.6	0.55
opaque	2.9	0.35
Tile-like glaze coating	4.6	0.55
Varnish	3.8	0.45
Waterproofing sealer	5.0	0.60
All other architectural coatings	2.1	0.25

7:27-23.4 (Reserved)

7:27-23.5 Labeling requirements

- (a) For architectural coatings subject to the requirements of N.J.A.C. 7:27-23.3, the following shall apply:
1. The label on any side of the container except the bottom shall carry a statement of the manufacturer's recommendation regarding thinning of the coating. The statement shall either specify that the coating is to be applied under normal environmental conditions without thinning, or limit thinning required for normal environmental conditions such that after thinning the coating will not exceed its applicable standard as given in Table 1 at N.J.A.C. 7:27-23.3(f).
 2. The label on any side of the container except the bottom shall include a statement which specifies the maximum pounds of VOC in a gallon of architectural coating as produced by that manufacturer, excluding water and any colorant added to tint bases and after any recommended thinning. For architectural coatings manufactured after August 9, 1991, this statement shall be prominent and in print no smaller than 0.08 inches (two millimeters or eight point) in size.
- (b) For all consumer products subject to (a) above, the label shall display the date on which the contents were manufactured or a code indicating the date of manufacture. The manufacturer shall supply an explanation of any code used to the Assistant Director, Enforcement Element, Division of Environmental Quality, CN 027, Trenton, New Jersey, 08625-0027, by February 28, 1990, and thereafter, 30 days prior to the use of any new or altered code.
- (c) For labeling purposes only, terms other than VOC may be used provided that the volatile organic content level cited on the label is an accurate reflection of the VOC content of the coating, as defined in this subchapter.
- (d) The provisions of this subchapter shall not apply to any architectural coating registered under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 et seq., provided the manufacturer has filed an application for any registration amendment necessary for compliance with this subchapter with EPA. A copy of this application shall be submitted by the manufacturer to the Assistant Director, Enforcement Element, Division of Environmental Quality, CN 027, Trenton, New Jersey, 08625-0027 by August 31, 1990. Those products for which an application for an amended registration has been submitted in a timely manner are exempt until such time as EPA has rendered a decision upon the amendment request. Within 30 calendar days of receipt of notice of EPA action on an amendment request, a copy of that notice will be supplied to the Assistant Director, Enforcement Element, at the address specified above. Within 180 calendar days of the receipt of an approval of any necessary change, the manufacturer shall begin use of the complying product or label.

7:27-23.6 Administrative requirements

- (a) Each manufacturer and distributor of an architectural coating subject to N.J.A.C. 7:27-23.3 shall include on the invoice, bill of lading, or other shipping document provided to the distributor or retailer receiving the product in New Jersey a statement indicating that the architectural coatings included on that shipping document and subject to N.J.A.C. 7:27-23.3, shipped by that manufacturer or distributor for sale in New Jersey, are in compliance with this subchapter. These documents shall be maintained by the manufacturer and the person receiving them for no less than five years and shall be made available to the Department upon request.
- (b) Each manufacturer of a consumer product which contains greater than five percent by weight VOC having a vapor pressure or sum of partial pressures of organic substances of 0.02 pounds per square inch (1 millimeter of mercury), absolute or greater measured at standard conditions and is sold for use in New Jersey shall maintain calendar year records indicating the types of products containing greater than five percent by weight VOC having a vapor pressure or sum of partial pressures of organic substances of 0.02 pounds per square inch (1 millimeter of mercury), absolute or greater measured at standard conditions produced by that manufacturer for sale in New Jersey, the number of units produced, the VOC content by weight, and the approximate number of units sold in New Jersey. Within a given product category variations of products that have VOC contents within a range of five percent by weight may be combined for the purpose of record keeping, provided the maximum weight percent and maximum weight per unit within the product category is records. Upon the request of the Department, the manufacturer shall submit, within 90 days of the request, a report on forms obtained from the Department about products sold in New Jersey containing greater than five percent by weight VOC. Records sufficient to provide the above information shall be maintained by each manufacturer for five years after each calendar year for which the data is collected.

7:27-23.7 Inspections

- (a) The Department and its representatives shall have the right to enter and inspect any site, building or equipment, or any portion thereof, at any time, in order to ascertain compliance or non-compliance with the Air Pollution Control Act, N.J.S.A. 26:2C, this chapter, any permit, or any order or agreement issued or entered into pursuant thereto. Such right shall include, but not be limited to, the right to test or sample any materials at the facility, to sketch or photograph any portion of the site, building or equipment, to copy or photograph any document or records necessary to determine such compliance or non-compliance, and to interview any employees or representatives of the owner, operator or registrant. Such right shall be absolute and shall not be conditioned upon any action by the Department, except the presentation of appropriate credentials as requested and compliance with appropriate standard safety procedures.
- (b) Owners or operators, and any employees or representatives thereof, of any manufacturing facility shall assist and shall not hinder or delay the Department and its representatives in the performance of all aspects of any inspection. Any facility manufacturing a coating will be considered a manufacturing facility for the purpose of this section, regardless of any other functions performed at the facility. Such assistance shall include making available sampling

equipment necessary to conduct sampling at the facility and providing sampling facilities for the Department to determine the nature and quantity of architectural coating being provided, stored, transported, exchanged in trade, sold, or offered for sale at the manufacturing facility. During such testing by the Department, the equipment and all components connected, attached to, or serving the equipment shall be used and operated under normal routine operation conditions or under such other conditions as may be requested by the Department. The facilities may be either permanent or temporary, at the discretion of the person responsible for their provision, and shall conform to all applicable laws and regulations concerning safe construction and safe practice.

- (c) Owners or operators, and any employees or representatives thereof, of any distribution facility, retail outlet or indirect consumer shall assist and shall not hinder or delay the Department and its representatives in the performance of all aspects of any inspection. Such assistance shall include providing any equipment necessary for access to all stock to allow the obtaining of samples by the Department to determine the nature and quantity of architectural coating being provided, stored, transported, exchanged in trade, sold, or offered for sale by the indirect consumer or at the retail or distribution outlet. In cases in which sampling equipment necessary to conduct sampling at the facility or sampling facilities to determine the nature and quantity of architectural coating at the facility are available on site, these equipment or facilities shall be made available for Department use.